

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

August Hohl,

Plaintiff,

v.

USAA Savings Bank; and DOES 1-10,
inclusive,

Defendants.

Civil Action No.: _____

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

For this Complaint, the Plaintiff, August Hohl, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1331, in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, August Hohl ("Plaintiff"), is an adult individual residing in West Bend, Wisconsin, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant USAA Savings Bank ("USAA"), is a Texas business entity with an address of 9800 Fredericksburg Road, San Antonio, Texas 78288, and is a "person" as defined by 47 U.S.C. § 153(39).

5. Does 1-10 (the “Agents”) are individual employees and/or agents employed by USAA and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

6. USAA at all times acted by and through one or more of the Agents.

FACTS

7. Within the last year, USAA started calling Plaintiff’s cellular telephone, number 608-xxx-8619, in an attempt to collect a consumer debt allegedly owed by Plaintiff.

8. At all times mentioned herein, USAA contacted Plaintiff using an automated telephone dialer system (“ATDS” or “predictive dialer”) and/or by using an artificial or prerecorded voice.

9. When Plaintiff answered USAA’s calls, he heard a prerecorded message advising Plaintiff that the call was regarding an urgent matter.

10. During a live conversation in early November 2015, Plaintiff informed USAA that he was fully aware of his delinquency and demanded that all calls to him cease immediately.

11. Thereafter, despite having been so informed and directed to cease communications, USAA continued placing automated calls to Plaintiff’s cellular telephone.

COUNT I

VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.

12. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. At all times mentioned herein and within the last year, Defendants called Plaintiff on his cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

14. Defendants continued to place automated calls to Plaintiff's cellular telephone after being directed by Plaintiff to cease calling and knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

15. The telephone number called by Defendants was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

16. The calls from Defendants to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

17. Each of the aforementioned calls made by Defendants constitutes a violation of the TCPA.

18. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

19. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendants:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);

C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: February 29, 2016

Respectfully submitted,

By /s/ Amy L. Cueller

Amy L. Cueller, Esq. #15052-49
LEMBERG LAW, L.L.C.
43 Danbury Road
Wilton, CT 06897
Telephone: (203) 653-2250
Facsimile: (203) 653-3424
E-Mail: acueller@lemb erglaw.com
Attorneys for Plaintiff